

ORDINANCE NO: 627

AN ORDINANCE OF THE TOWN OF EASTON AMENDING SECTION 2-26.2.2 AND SECTION 11-6 OF THE TOWN CODE TO AUTHORIZE CERTAIN ADMINISTRATIVE WAIVERS OF THE MINIMUM PROPERTY MAINTENANCE STANDARDS

Introduced By: _____

WHEREAS, the Town of Easton is authorized to enact ordinances for the enhancement of the health, comfort and convenience of the citizens of the Town of Easton; and

WHEREAS, the Town of Easton is authorized by §12-203 of the Public Safety Article of the Maryland Annotated Code to have in force a minimum livability code that substantially conforms to the Minimum Livability Code adopted by the State; and

WHEREAS, the Town of Easton has enacted the “Minimum Housing Standards Code” and the “International Property Maintenance Code 2009” as the Town’s minimum livability code and has codified the same as Chapter 11 Article 1 of the Town Code; and

WHEREAS, §12-203(g)(1) of the Public Safety Article of the Maryland Annotated Code and § 05.02.03.05B of the Code of Maryland Regulations (COMAR) authorize the Town to grant waivers of the minimum livability code if certain requirements are met; and

WHEREAS, the Town Council wishes to specifically authorize administrative waivers.

NOW, THEREFORE, the Town of Easton hereby ordains that:

Section 1. Chapter 11, Article I, of the Easton Town Code is hereby amended to add Section 11-6, to read as follows:

§ 11-6 Administrative Waivers. (Ordinance 627 effective _____)

§ 11-6.1 Administrative Waiver Process. The Code Official may grant administrative waivers of the provisions of the minimum standards for property maintenance in the Town of Easton, Maryland, subject to the limitations provided in § 11-6.3, if the following are satisfied:

1. Application for an administrative waiver is applied for by the property owner in a form acceptable to the Code Official;

2. Adequate written notice of the waiver application is afforded to the tenant of the unit and a copy shall be provided to the Code Official.
3. The tenant is afforded an opportunity to comment on the application either in writing or in person; and
4. The waiver would not threaten the health or safety of a tenant.

§ 11-6.1.1 Administrative Waiver Fee. There shall be no fee assessed for the filing of an administrative waiver with the Code Official for properties which are appropriately licensed at the time of application. A fee may be applicable to any administrative waiver application for property owners who have, in the twelve (12) month period immediately preceding the administrative waiver request, operated a rental property without the required rental license and whose property was the subject of any action by any department of the Town of Easton to cause the previously unlicensed property to become properly licensed. The Town Council may establish the fee by resolution as part of the Town's Schedule of Fees.

§ 11-6.2 Duration of Waiver. Any administrative waiver granted pursuant to this § 11-6 shall be valid for the duration of the tenancy during which it was granted and for the owner for which it was granted. The administrative waiver shall be continued for future tenancies if the tenant executes a written document evidencing that he or she has been notified of the administrative waiver and does not object to the continuation of the administrative waiver. If the tenant does object to the continuation of the waiver, then the Code Official shall afford the tenant the opportunity to be heard and decide the administrative waiver on its merits. It shall be the responsibility of the property owner to notify each new tenant of the administrative waiver and provide a copy to the Code Official. It shall also be the responsibility of the property owner to notify the Town of a change in tenancy or a change in ownership. In addition, each year, the property owner shall include the name, contact information, and waiver form for the then current tenant with the rental application for that particular unit.

§ 11-6.3 Limitations on Waivers. Administrative Waivers for ceiling heights, stairways and hardship shall be subject to the following limitations and provisions:

§ 11-6.3.1 Minimum Ceiling Height – Administrative Waiver. The Code Official may grant an administrative waiver for one and two family dwellings to allow ceilings constructed prior to January 21st 1963, to continue without change, provided they meet all of the following provisions;

1. Having a minimum floor area, with a clear ceiling height between 6 feet 8 inches (2032 mm) and 7 feet (2134 mm) in accordance with the following table.

TABLE
MINIMUM AREA REQUIREMENTS FOR
ADMINISTRATIVE WAIVER

Space	Ceiling Type	Minimum Area in Square Feet		
		1-2 occupants	3-5 occupants	6 or more occupants
Living	Flat or Sloped	120	120	150
Dining		70	80	100
Kitchen		70	80	100
Bedroom		70 or 100	150, 200 or 250	300*

For SI: 1 square foot = 0.093 m²

Maximum occupants per bedroom shall be limited to six

2. Beams, girders, ducts and similar obstructions do not project below 6 feet 8 inches (2032 mm).
3. Functioning hard wired or sealed long lasting battery operated smoke detectors are supplied in each area.
4. Carbon monoxide detectors are supplied in each area, if fuel-fired appliances are installed in the dwelling and/or if there is an attached garage.
5. Code compliant emergency escape and rescue openings are provided if the area is for sleeping.

§ 11-6.3.2 Stairway – Administrative Waiver. The Code Official may grant an administrative waiver for one and two family dwellings to allow stairways constructed prior to February 27th 1984, to continue without change, provided they meet all of the following provisions;

1. Sufficient width and height exist for a person to traverse the means of egress
2. The stairway has dimensional uniformity in the treads and risers along the walk line
3. Adequate hand and guard rails are provided
4. The stairway does not constitute a distinct hazard to life.

§ 11-6.3.3 Hardship – Administrative Waiver. In addition to the waivers provided in sections 11-6.3.1 and 11-6.3.2, the Code Official may grant an administrative

waiver for one and two family dwellings of Sections 303.2, 307, 402.1, 402.2, 403.1, 404.2, 404.4.1, 404.4.3, 404.6, and 702.4 of the Minimum Livability Code if a literal enforcement of the provisions of the minimum livability code would result in hardship to the property owner. A waiver under this section may only be granted to the extent necessary to remove the hardship and if the Code Official finds that at least one of the following circumstances exist:

1. The safety protections provided by the particular section at issue are adequately satisfied by other means; or
2. The alterations or repairs required by the code are technically infeasible; or
3. The costs to make the alteration or repair required are disproportionate to the assessed, appraised or calculated value of the dwelling; or
4. The increase in safety protections provided are minor when compared to the feasibility or costs to make the alteration.

§11-6.4 Additional Waiver Provisions.

§11-6.4.1 Conditions. The Code Official may impose such conditions on the granting of a waiver as he or she deems necessary to protect the health and safety of the tenant.

§11-6.4.2 Alterations and Renovations. Any alterations or renovations shall first comply with the provisions of the Maryland Building Rehabilitation Code. Alterations and renovations that do not comply with the Maryland Building Rehabilitation Code and the minimum livability code shall not be initiated.

§11-6.4.3 Board of Appeals. If the Code Official elects not to grant a waiver of the provisions for minimum ceiling height, stairways or hardship, then the property owner may apply for a waiver to the Board of Appeals pursuant to § 2-26.2 of the Town Code. The fee, if any, for filing with the Board of Appeals shall be established in the Schedule of Fees. The Board of Appeals shall have the power to grant a waiver for the ceiling height, stairways and hardships that comply with the provisions and requirements of § 11-6 of the Town Code and subject to the limitations set forth in § 11-6.3. For the purpose of waiver applications, the Board of Appeals shall have two additional members (for a total of five). Such additional members shall be Town residents appointed by the Mayor and confirmed by the Town Council. The additional members shall be appointed for terms of three years each. Vacancies shall be filled by appointment for the unexpired term.

(all language in this section is new language to be added to the Code)

Section 2. Section 2-26.2.2 of Chapter 2, Article VII, of the Easton Town Code is hereby amended to read as follows:

§ 2-26.2.2 *Application for appeal* ~~Limitations on authority.~~ An application for appeal shall be based on a claim that the true intent of the ~~Building C~~ codes or the rules legally adopted thereunder have been incorrectly interpreted, ~~the provisions of Building Codes~~ ~~or~~ do not fully apply, ~~or the requirements of the Building Code are adequately satisfied by other means.~~

§ 2-26.2.2.1 *Waiver authority.* *Except as set forth in § 11-6.4.3 of the Easton Town Code,* the board shall have no authority to waive requirements of the ~~Building C~~ codes. (Ordinance 627 effective _____, historical reference 86, 448, and 559).

(new language shown in ***bold italics***, deleted text is shown ~~struck~~)

Section 3. In accordance with Article II Section 9 of the Easton Town Charter, this ordinance shall become effective twenty (20) calendar days after approval by the Mayor or passage of this ordinance by the Council over the Mayor's veto.

Malone	-
Leshner	-
Wendowski	-
Cook	-
Ford	-

I hereby certify that the above Ordinance was passed by a yea and nay vote of the Council this _____ day of _____, 2013.

John F. Ford, Town Council President

Delivered to the Mayor by me this _____ day of _____, 2013.

Kathy M. Ruf, Town Clerk

APPROVED:

Date: _____

Robert C. Willey, Mayor

EFFECTIVE DATE: _____, 2013.